

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)	CASE NO.: 1:05-cv-00081-SJM
)	
Plaintiff,)	
)	
vs.)	
)	
JAMES E. WHITLEY, JR., and)	
CHARITY A. WHITLEY,)	
)	
Defendants.)	

AFFIDAVIT

John P. Davis, III, Esquire, deposes and says:

1. I am counsel for the United States Attorney for the Western District of Pennsylvania and represent the Plaintiff, the United States of America, in the above action.

2. On March 14, 2005, the United States filed a Complaint in Mortgage Foreclosure and for Deficiency Judgment against the Defendants.

3. On that same date, the Defendants were mailed a copy of the Complaint, the Notice of Lawsuit and Request for Waiver of Service of Summons, and the Waiver of Service of Summons via Certified Mail, Return Receipt Requested, at their last known address of 219 Rocca Way, Franklin, Pennsylvania 16323. Defendants failed to acknowledge receipt of the packages, which were subsequently returned to the Plaintiff by the Franklin, Pennsylvania postmaster.

4. On or about May 4, 2005, the United States Marshals Service personally served Defendant James E. Whitley, Jr. with a copy of the Summons and Complaint.

5. On or about August 31, 2005, the United States Marshals Service personally served Defendant, Charity A. Whitley with a copy of the Summons and Complaint.

6. The Defendants have not answered or asserted any defense in this action as required by the Federal Rules of Civil Procedure.

7. The Defendants remain indebted to Plaintiff in the sum of \$63,948.25, plus interest and costs, by reason of the averments set forth in the Complaint.

8. To the best of my knowledge, information and belief, the Defendants are not incompetent persons or infants and are not in the military service of the United States of America. I hereby declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Respectfully submitted,

JONES, GREGG, CREEHAN & GERACE, LLP

Date: September 29, 2005

By: 

John P. Davis, III, Esquire
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Counsel for the U.S. Attorney.